IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 7TH NOVEMBER 2006 / 16TH KARTHIKA 1928

ST.Rev..No. 383 of 2006

TA.11/2006 of S.T.A.TRIBUNAL,ADDL.BENCH,PALAKKAD
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REVISION PETITIONER/APPELLANT

M/S.G.KESAVAN,
JAGGERY MERCHANTS AND COMMISSION AGENTS,
PALAKKAD.

BY ADV. SRI.N.MURALEEDHARAN NAIR
SRI.V.K.SHAMUSUDHEEN

RESPONDENT/RESPONDENT:

STATE OF KERALA.

BY GOVT. PLEADER (SHRI GEORGEKUTTY MATHEW)

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 07/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C. N. RAMACHANDRAN NAIR &
K. M. JOSEPH, JJ.

S.T.REV. NO. 383 OF 2006

Dated this the 7th day of November, 2006

JUDGMENT

C. N. Ramachandran Nair, J.

Order under challenge in this S.T.Rev. is the one issued by Tribunal confirming the confiscation order issued under Section 29A(14) of the KGST Act. A consignment of 63 bags of jaggery was seized by the Department from a truck at Kottamangalam. The truck contained two sets of bills, one for 60 bags of jaggery and the other for 63 bags of jaggery - one issued by a dealer in Pollachi and the other issued by a dealer at Kozhippara, both to separate dealers in Palakkad. Petitioner is one such dealer in Palakkad who claims to be the purchaser of Jaggery under cover of sale bill issued by Shakthi Traders, Kozhippara, the proprietrix of which is one Radha. Goods were seized and later released on furnishing Bank Guarantee for its

value. During enquiry, petitioner could not establish genuineness of the transport and ownership of goods claimed by him. Therefore, goods though released to petitioner on furnishing Bank Guarantee for its value, were notionally confiscated. Appeal at two levels were unsuccessful and petitioner is in this Court in revision against second appellate order of Tribunal.

2. We have heard counsel for petitioner and Government Pleader. Since the Tribunal has not given detailed reasons, we have gone through the orders of the two lower authorities. The clear-cut finding is that petitioner could not prove that the documents were genuine, and that petitioner is the owner of the goods. Beside this, the Driver at the time of seizure, gave a statement that goods were loaded from Pollachi while the claim of petitioner is that the goods originated from Kozhippara, which is within Kerala State. In fact, the Departmental Officer

collected evidence from the so-called seller to petitioner at Kozhippara who could not show source of goods before sale. Therefore, the attempt to establish purchase by petitioner from Kozhippara failed. Even though counsel for petitioner contended that at the maximum this is a case of transport of goods without proper documents, the facts disclosed that the goods originated from Pollachi and the documents based on which petitioner made claim, showed the purchase as from Kerala. Therefore, the documents accompanied the goods do not reflect actual transaction and hence it is bogus. Petitioner's claim, therefore, cannot be allowed. Since the documents cannot be related to the goods and the driver's statement is directly opposed to petitioner's claim, we feel the documents based on which petitioner made claim, is not the genuine documents and were obviously bogus. Since petitioner has also failed to establish purchase from the party at Kozhippara who failed to prove the source of goods for sale to petitioner, we feel

the Tribunal rightly confirmed the order of the appellate authority. We, therefore, dismiss the S.T.Rev.Case.

C. N. RAMACHANDRAN NAIR, JUDGE

K. M. JOSEPH, JUDGE

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